

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

ARLAN A. COHEN, M.D., J.D.,

Plaintiff and Respondent,

v.

MICHAEL BROWN, ESQ. et al.,

Defendants and Appellants.

B206223

(Los Angeles County
Super. Ct. No. GC039861)

ORDER MODIFYING OPINION
AND DENYING PETITION FOR
REHEARING
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed in this cause on April 24, 2009, be modified as follows:

At page 21, please add the following new footnote 10, with the designator therefor to go after the words “therefore unlawful.” which are located at the beginning of line 15:

In a petition for rehearing, Brown argued that this court should modify its opinion to state that the plaintiff is precluded from contending in any subsequent proceedings following remand, including trial, that our affirmance of the trial court’s said conclusion is the law of the case. We decline to do so. Any attempt by this court to resolve an issue

that has not yet been raised, and which would necessarily depend upon the finality of this decision, would be premature and advisory. The resolution of any law of the case issue that may be raised by the plaintiff should be left to the initial consideration of the trial court. (See generally, 9 Witkin, Cal. Procedure (5th ed. 2008) §§ 470-472, pp. 528-531.)

The petition for rehearing filed by the appellant on May 11, 2009 is denied.

[There is no change in the judgment.]